

**A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION  
COMMITTEE**

**A RESOLUTION AUTHORIZING [i] THE SETTLEMENT OF A CONSTRUCTION CLAIM AND LAWSUIT BY WESTON SOLUTIONS, INC. AGAINST THE CITY OF ATLANTA RELATING TO CONTRACT NO. FC-5508-93; GUN CLUB ROAD SANITARY LANDFILL CLOSURE, IN THE TOTAL AMOUNT OF \$390,000; [ii] THE CITY ATTORNEY TO EXECUTE ANY NECESSARY SETTLEMENT AGREEMENT TO EFFECTUATE THE SETTLEMENT; AND [iv] FOR OTHER PURPOSES.**

**BACKGROUND:**

The City and Weston Solutions, Inc. entered into a Contract on April 19, 1995, that provided for the design and construction of the closure of the Gun Club Road Sanitary Landfill;

The original Contract value was based on a guaranteed maximum price (GMP) valued at \$7,500,000;

Total Change Orders to the Contract during its time of performance increased Weston's original Contract value by \$610,379.39; Weston's adjusted Contract amount for approved and executed change orders was \$8,110,379.39;

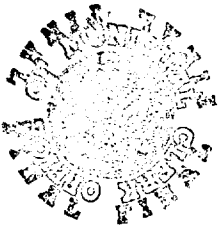
During the course of the Project, on March 27, 1998, Weston submitted a Request for Equitable Adjustment to the City for \$1,265,539.88 alleging it incurred additional costs during the Project relating to: (1) increased Contract unit quantities; and (2) out-of-scope extra work.

Weston filed a lawsuit against the City on October 28, 2002, seeking payment of its Request for Equitable Adjustment;

The City's Law Department retained Britton & Associates, Inc. (a construction claim consultant) to review Weston's Request for Equitable Adjustment;

On July 1, the City and Weston engaged in an informal settlement mediation in which a tentative settlement of the \$1.2 million claim was reached for \$390,000;

After nearly a year of litigation, and intensive settlement discussions, the parties have agreed to settle the lawsuit for \$390,000, based upon, among other things, an analysis of litigation risk, the consideration of the cost to complete discovery in the case, file dispositive motions and go to trial, and the parties' consultants' analysis of the Request for Equitable Adjustment;



The City has determined that it is desirable and in its best interests to settle the Request for Equitable Adjustment and the lawsuit and to pay Weston the sum of \$390,000;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,** that the City Attorney is authorized to settle the case of Weston Solutions, Inc. v. City of Atlanta; Case No. 2002CV60591; Superior Court of Fulton County, Georgia, in the total amount of \$390,000;

**BE IT FURTHER RESOLVED THAT** the Chief Financial Officer is authorized to pay to Weston a total sum of \$390,000 to be paid from Account No. M31H020491AA574001, on behalf of the City, in exchange for Weston's execution and delivery to the City of a Settlement Agreement and a filed Notice of Voluntary Dismissal With Prejudice dismissing the lawsuit;

**BE IT FURTHER RESOLVED THAT** the City Attorney is authorized, on behalf of the City, to execute the Settlement Agreement with Weston;

**BE IT FURTHER RESOLVED THAT** the Settlement Agreement will not be binding upon the City and the City will incur no liability under it, until it has been executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form, duly executed by Weston and delivered to Weston.

A true copy,

*Phonda Dauphin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

OCT 06, 2003  
OCT 14, 2003

RCS# 5041  
10/06/03  
2:05 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-14

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	B Boazman	NV Woolard

CONSENT I

10-06-03 Council Meeting		
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 03-O-1475	37. 03-R-1521	71. 03-R-1555
2. 03-O-1471	38. 03-R-1522	72. 03-R-1556
3. 03-O-1438	39. 03-R-1523	73. 03-R-1557
4. 03-O-1442	40. 03-R-1524	74. 03-R-1558
5. 03-O-1452	41. 03-R-1525	75. 03-R-1559
6. 03-O-1380	42. 03-R-1526	76. 03-R-1560
7. 03-O-1478	43. 03-R-1527	77. 03-R-1561
8. 03-O-1479	44. 03-R-1528	78. 03-R-1562
9. 03-O-0953	45. 03-R-1529	79. 03-R-1563
10. 03-O-1455	46. 03-R-1530	80. 03-R-1564
11. 03-O-1476	47. 03-R-1531	81. 03-R-1565
12. 03-O-1481	48. 03-R-1532	82. 03-R-1566
13. 03-R-1498	49. 03-R-1533	83. 03-R-1567
14. 03-R-1499	50. 03-R-1534	84. 03-R-1568
15. 03-R-1582	51. 03-R-1535	85. 03-R-1569
16. 03-R-1583	52. 03-R-1536	86. 03-R-1570
17. 03-R-1502	53. 03-R-1537	87. 03-R-1571
18. 03-R-1503	54. 03-R-1538	88. 03-R-1572
19. 03-R-1505	55. 03-R-1539	89. 03-R-1573
20. 03-R-1506	56. 03-R-1540	90. 03-R-1574
21. 03-R-1507	57. 03-R-1541	91. 03-R-1575
22. 03-R-1488	58. 03-R-1542	92. 03-R-1576
23. 03-R-1489	59. 03-R-1543	93. 03-R-1577
24. 03-R-1490	60. 03-R-1544	94. 03-R-1578
25. 03-R-1491	61. 03-R-1545	
26. 03-R-1492	62. 03-R-1546	
27. 03-R-1495	63. 03-R-1547	
28. 03-R-1513	64. 03-R-1548	
29. 03-R-1514	65. 03-R-1549	
30. 03-R-1515	66. 03-R-1550	
31. 03-R-1516	67. 03-R-1551	
32. 03-R-1517	68. 03-R-1552	
33. 03-R-1518	69. 03-R-1553	
34. 03-R-1519	70. 03-R-1554	
35. 03-R-1520		
36. 03-R-1579		

Consent I Vote: 13 Yeas; 0Nays: (See RCS #5041)

03-R-1582

(Do Not Write Above This Line)

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BY THE PUBLIC SAFETY AND LEGAL  
ADMINISTRATION COMMITTEE

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PURPOSES.

ADOPTED BY

OCT 06 2003

- ☐ CONSENT REFER
- ☐ REGULAR REPORT RE **COUNCIL**
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

PCLA Committee

4-30-03  
Chair

Action  
Fav, Adv, Hold (see rev. side)  
Other

Members

*[Signature]*  
*[Signature]*  
*[Signature]*

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Committee

Date

Chair

Action  
Fav, Adv, Hold (see rev. side)  
Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
- Readings
- ☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED  
OCT 06 2003

ATLANTA CITY COUNCIL PRESIDENT

*[Signature]*  
Catherine W. Woodward

CERTIFIED  
OCT 06 2003

*[Signature]*  
MUNICIPAL CLERK

MAYOR'S ACTION

*[Signature]*

MAYOR